

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 96-0443

**Individual Income Tax
For Tax Years 1990 through 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Income Tax—Failure to File Indiana Individual Income Tax Returns

Authority: IC 6-8.1-5-1(b)

Taxpayer protests the imposition of Indiana adjusted gross income tax.

II. Tax Administration—Penalty

Authority: IC 6-8.1-10-4

Taxpayer protests the imposition of the one hundred percent (100%) penalty.

STATEMENT OF FACTS

The taxpayer was arrested by Vigo County law enforcement officials on May 30, 1996. The taxpayer had \$590,859.00 in cash in his possession. The taxpayer did not file income tax returns in 1990, 1991, 1992, 1993, 1994, or 1995. The taxpayer protested the assessment and penalty, but offered no evidence to support the protest. A telephone hearing was scheduled, but taxpayer failed to call. This Letter of Finding is based on the best information available to the Department. Additional facts will be provided as necessary.

I. Income Tax—Failure to File Indiana Individual Income Tax Returns

DISCUSSION

Taxpayer was arrested on May 30, 1996, by the police with \$590,859.00 in his possession. Taxpayer failed to file income tax returns for the years 1990-1995. The

Department of Revenue assessed the taxpayer income tax for those years based on the best information available. Taxpayer protested the assessment, but failed to provide any evidence to support that protest.

Pursuant to Indiana Code Section 6-8.1-5-1(b), “The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.”

Taxpayer protested the assessment but did not offer any evidence that the assessment was invalid. As such, the taxpayer failed to meet the burden imposed by IC 6-8.1-5-1(b).

FINDING

Taxpayer’s protest is denied.

II. Tax Administration—Penalty

DISCUSSION

Taxpayer protests imposition of a one hundred percent (100%) penalty. IC 6-8.1-10-4 provides:

- (a) If a person fails to file a return or to make a full tax payment with that return with the fraudulent intent of evading the tax, he is subject to a penalty.
- (b) The amount of the penalty imposed for a fraudulent failure described in subsection (a) is one hundred percent (100%) multiplied by:
 - (1) the full amount of the tax, if the person failed to file a return; or
 - (2) the amount of the tax that is not paid, if the person failed to pay the full amount of the tax.

Taxpayer failed to file returns for the years 1990-1995. In light of the fact that taxpayer was carrying \$590,859.00 in cash, the Department was reasonable in finding that the taxpayer had fraudulent intent of evading paying income tax for the years in question.

FINDING

Taxpayer’s protest is denied.